

contracts may result in higher costs to other carriers as they are forced to accept a mix of traffic with higher termination costs.

The LECs have an incentive to engage in this form of cross-subsidy in order to raise the costs of potential rivals in local access markets, which includes the three US carriers with the largest share in international markets (*i.e.*, AT&T, Worldcom/MCI, and Sprint). In domestic local and long distance markets, there are substantial provisions for regulatory oversight that are intended, in part, to limit a LEC's ability to exploit its market power (*e.g.*, direct regulation by state Public Utilities Commissions, requirements for public filing of tariffs, regulatory prohibition against participating in interLATA services until a LEC satisfies the requirements of Section 271 of the Telecommunications Act of 1996, etc.) that would not apply to geographic grooming contracts entered into under a flexible settlements agreement without disclosure requirements.

The use of flexible geographic grooming contracts would offer the LECs an especially attractive way to raise rivals' costs. The LECs do not carry outbound traffic from their territory and so are not liable for settlements payments that exceed costs for that traffic. Because settlement payments are computed on the basis of net outbound less inbound traffic, the burden of the settlement subsidy associated with above-cost settlement rates would increase more for other carriers with greater amounts of outbound traffic.

The LEC has an incentive to invest in anticompetitive behavior of any form that is likely to preserve the net present value of the excess profits it expects to earn as the *de facto* monopolist with respect to local access and telephone services. Although it is now two and half years since the passage of the Telecommunications Act of 1996, there is still not effective competition for local telephone or access services in any State. Moreover, no

State has successfully completed implementation of the pro-competitive provisions required by the Act (*e.g.*, CLECs do not have the capability of electronically accessing the incumbent LECs Operations Support Systems at parity).

In summary, therefore, restrictions against the LECs entering into grooming contracts with foreign carriers are needed to protect international competition from anticompetitive behavior by the LECs. These restrictions are likely to be needed as long as the LECs retain significant market power and access charges remain above cost.

#### **5. Conclusions and Recommendations**

This affidavit explains why it is both mutually consistent and advisable to (1) eliminate the asymmetric requirement of public disclosure and "no unreasonable discrimination" requirements for flexibility agreements affecting 25% or more of the inbound or outbound traffic to a foreign country; and (2) to retain the restriction against LECs entering into discriminatory settlements grooming contracts. In the former case, the rule discriminates against firms without market power, while in the latter it limits potential anticompetitive behavior by LECs. In both instances, the advocated policy will help safeguard competition and protect the public interest.

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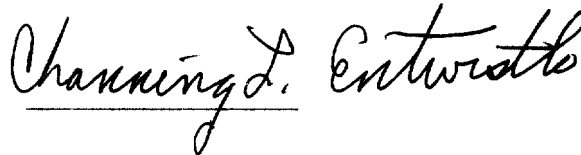
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I hereby swear, under penalty of perjury, that the foregoing is true and correct, to the best of my knowledge and belief.



William H. Lehr

Subscribed and sworn before me this 15 day of September, 1998.



Notary Public

**Channing L. Entwistle**  
**NOTARY PUBLIC**  
My commission exp. Dec. 8, 2000

My Commission expires: \_\_\_\_\_

**Attachment #1**

**WILLIAM HERNDON LEHR**  
**Curriculum Vitae**

*Contact information:*

<b>Home/Office</b>	<b>Alternate Office</b>
94 Hubbard Street Concord, MA 01742 Tel: 978-287-0525 Cellular: 978-618-3775 Fax: 978-287-5467 Email: <a href="mailto:wlehr@brimstoneassociates.com">wlehr@brimstoneassociates.com</a>	Massachusetts Institute of Technology 1 Amherst Street (E40-235) Cambridge, MA 02139 Tel: 617-258-0630 Fax: 617-253-7326

**Biographical Description**

Dr. William Lehr is an economist and industry consultant. He is a consultant to the Massachusetts Institute of Technology Internet Telephony Consortium (MIT ITC), an associate research scholar on the faculty of Columbia University's Graduate School of Business, and a research associate at the Columbia Institute of Tele-Information. His fields of specialization and research include industrial organization, political economy, and regulation, especially as these apply to information technology industries. He teaches courses in microeconomics and competitive strategy, including a course on the media and seminars on telecommunications economics. He has published articles on such topics as the effects of industry structure on the quality of telecommunications infrastructure, the economics of standardization, and Internet pricing. He is currently engaged in research on the effects of computer investment on productivity and organizational structure and on Internet industry structure and pricing mechanisms. This latter work is being undertaken in conjunction with the MIT ITC, which is an academic/industry consortium devoted to research on issues related to the convergence of Internet and telecommunications infrastructure.

In addition to his academic research, Dr. Lehr provides litigation, economic, and business analysis consulting services for firms in the information technology industries. Over the past three years, he has worked extensively providing expert testimony and litigation support services in regulatory proceedings before the FCC and numerous state commissions associated with issues related to the implementation of the Telecommunications Act of 1996.

Dr. Lehr holds a PhD in Economics from Stanford (1992), an MBA from the Wharton Graduate School (1985), and MSE (1984), BS (1979) and BA (1979) degrees from the University of Pennsylvania.

**WILLIAM HERNDON LEHR**  
**Curriculum Vitae**

**EDUCATION**

**Ph.D.**, Economics, Stanford University, 1992.  
**M.B.A.**, with distinction, The Wharton School, University of Pennsylvania, 1984.  
**M.S.E.**, Chemical Engineering, University of Pennsylvania, 1984.  
**B.S.**, Chemical Engineering, *cum laude*, University of Pennsylvania, 1979.  
**B.A.**, European History, *magna cum laude*, University of Pennsylvania, 1979.

Academic Honors: Graduate Student Research Award, Telecommunications Policy Research Conference, 1991; Lynde and Harry Bradley Foundation Fellowship, 1990; Stanford Fellowship, 1987

**PROFESSIONAL EXPERIENCE**

Graduate School of Business, Columbia University (New York, NY), Associate Research Scholar of Finance and Economics, 1997-present; Assistant Professor of Finance and Economics, July 1991 to December 1996.

Internet Telephony and Interoperability Consortium, Center for Technology, Policy and Industrial Development, Massachusetts Institute of Technology (Cambridge, MA), Consultant, January 1997-present.

RAND Corporation (Santa Monica, CA), Graduate Student Intern, Summer 1990.

Economic Analysis Group, Ltd. (Washington, DC), Senior Consultant, 1986-1987.

"Baghdad 2000" Master Development Plan (Baghdad, Iraq), Economist and Systems Analyst, 1985-1986.

M.C.I. Telecommunications (Washington, DC), Manager of Financial Analysis, 1985; Senior Financial Analyst, 1984.

Office of Management and Budget, National Security Division (Washington, DC), Graduate Student Intern, Summer 1983.

Putnam, Hayes and Bartlett (Cambridge, MA), Research Associate 1980-1982.

**TEACHING EXPERIENCE**

Internet Economics 101, 1998  
Economics of Telecommunications Pricing, 1996, 1997  
Economics and Strategy in Media Industries, 1993-1995  
Economics of Strategic Management, 1993

Managerial Economics, 1991-1995

Theory of the Firm (teaching assistant for Paul Milgrom), 1989

## **PAPERS and PUBLICATIONS**

"Telecommunication Regulation in the United States and Europe: The Case for Centralized Authority," with Thomas Kiessling, paper presented to the Twenty-sixth Telecommunications Policy Research Conference, Alexandria, VA, October 1998.

"The Flexible Specialization Path of the Internet," with Petros Kavassalis, forthcoming in *Beyond Convergence: Communications in the New Millenium*, edited by Erik Bohlin, Stockholm, Sweden.

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"Understanding Vertical Integration in the Internet," mimeo, paper presented to Euro CPR '98 Conference, Venice, April 1998.

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"ISDN in the U.S.A.: Is it Arriving at Last?", in *ISDN: An International Comparison of Trends in the USA, Japan, Singapore and Europe*, Final Report to the ISDN Commission of North Rhine-Westphalia, May 1996.

"Compatibility Standards and the Internet", working paper, September 1992.

"Standardization: Understanding the Process", Journal of the American Society for Information Science, vol 43, no 8 (September 1992) 550-555.

"Voluntary Standard Setting, Institutions and the Allocation of Technical Capabilities", working paper, July 1992.

"ISDN and the Small User: Regulatory Policy Issues", with Roger Noll, in Integrated Broadband Networks: the Public Policy Issues, edited by Martin Elton, North-Holland, New York, 1991, 147-178.

"Incremental Costs and the Efficient Pricing of Local Exchange Services: A Synopsis of the Incremental Cost Conference", Center for Economic Policy Research Working Paper #175, Stanford University, January 1990.

"Vertical Integration in the Cable Television Industry: the Issue of Content/Carrier Separation", WD-5100-MF, RAND Corporation, Santa Monica, CA, August 1990.

"ISDN: an Economists' Primer to a New Telecommunications Technology", working paper, February 1989.

"Economics of Anticipatory Standard Setting", paper presented to the European Association of Research in Industrial Economics (E.A.R.I.E.) Conference, Chania, Crete, September 1994.

"Political Economics of Voluntary Standard Setting", working paper, January 1992.

## CERTIFICATE OF SERVICE

I, Karen Kotula, do hereby certify that on this 16th day of September, 1998  
a copy of the foregoing "Comments of AT&T Corp." was mailed by U.S. first class mail,  
postage prepaid, upon the parties on the attached service list:

  
Karen Kotula



## SERVICE LIST

Ambassador Vonya B. McCann  
United States Coordinator  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 4826  
2201 C Street, N.W.  
Washington, DC 20520-1428

Joan Donoghue  
Assistant Legal Adviser for  
Economic, Business and  
Communications Affairs  
Office of the Legal Adviser  
2201 C Street, N.W.  
Department of State  
Washington, DC 20520-6310

Robin R. Layton  
ITA  
Department of Commerce  
Room 4324  
14th St. & Constitution NW  
Washington, DC 20230

Richard Beaird  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 4836  
2201 C Street, N.W.  
Washington, DC 20520-1428

Steven Lett  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 4826  
2201 C Street, N.W.  
Washington, DC 20520-1428

Anthony Cina  
Bureau of International  
Communications and  
Information Policy  
Department of State  
Room 4826  
2201 C Street, N.W.  
Washington, DC 20520-1428

Gary Couey  
Bureau of International  
Communications and Information  
Policy  
Department of State  
Room 4826  
2201 C Street, N.W.  
Washington, D.C. 20520

Shirl Kinney  
Deputy Assistant Secretary  
for Communications and  
Information  
NTIA  
Department of Commerce  
Room 4898  
14th Street & Constitution, N.W.  
Washington, D.C. 20230

Suzanne Settle  
Senior Policy Advisor  
Department of Commerce NTIA  
Room 4701  
14th St. & Constitution, N.W.  
Washington, DC 20230

Jack Gleason,  
Acting Administrator  
Office of International  
Affairs  
Department of Commerce NTIA  
Room 4701  
14th St. & Constitution, N.W.  
Washington, DC 20230

Larry Irving  
Assistant Secretary for  
Communications and  
Information  
Department of Commerce NTIA  
Room 4898  
14th St. & Constitution, N.W.  
Washington, DC 20230

Barbara Wellberry  
Chief Counsel  
Department of Commerce NTIA  
Room 4713  
14 St. & Constitution Ave. NW  
Washington, DC 20230

Cathleen Wasilewski  
Attorney Advisor, Office of  
Chief Counsel  
Department of Commerce NTIA  
Room 4713  
14th St. & Constitution N.W.  
Washington, DC 20230

John Dalton  
Secretary of the Navy  
Office of the Secretary  
Department of the Navy  
The Pentagon  
Washington, DC 20310

Dr. James E. Soos  
Deputy Assistant Secretary  
of Defense for C3  
Room 3E194  
6000 Defense Pentagon  
Washington, DC 20301-6000

Carl Wayne Smith, Esq.  
Code AR Defense Information  
Systems Agency  
701 South Courthouse Road  
Arlington, VA 22204

Office of General Counsel  
National Security Agency  
9800 Savage Road  
Fort Meade, MD 20755-6000

Robert S. Koppel  
VP - Legal & Regulatory  
Affairs  
IDB Worldcom  
15245 Shady Grove Road  
Suite 460  
Rockville, MD 20850-3222

John Scorce  
MCI International, Inc.  
1801 Pennsylvania Ave., N.W.  
Washington, DC 20006

Gail Polivy, Esq.  
GTE Hawaiian Telephone Company  
1850 M Street, N.W.  
Washington, DC 20036

Keith H. Fagan  
COMSAT Communications  
6560 Rockspring Drive  
Bethesda, MD 20817

Michael Fingerhut  
Leon Kestenbaum  
Kent Nakamura  
Sprint Communications  
Company L.P.  
1850 M Street, N.W.  
Washington, DC 20036